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C O N F I D E N T I A L SECTION 01 OF 02 PORT AU PRINCE 001353

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E.O. 12958: DECL: 10/05/2014
TAGS: PGOV, PHUM, PREL, HA
SUBJECT: HAITI: SUPREME COURT ANNULS KEY PART OF RABOTEAU
TRIAL

Classified By: Charge d'Affaires Douglas Griffiths, REASONS 1.5(B) AND (D).

1. (C) Summary. On May 9, the Haitian Supreme Court issued an unexpected ruling that effectively annulled one part of the 2000 Raboteau trial. The decision, on procedural grounds, annuls the convictions of the 15 people who were actually present during the proceedings, but leaves unclear whether they can be retried. The Court did not/not annul the convictions of the 37 people who were convicted in absentia, including senior officials of the Haitian army and FRAPH leaders Louis-Jodel Chamblain (currently in jail here) and Emmanuel "Toto" Constant (currently awaiting deportation in the U.S.). The Gonaives prosecutor and the chief judge of the Gonaives court have connived in an effort to get Chamblain released illegally, but the IGOH has pledged not to do so. Legitimate questions have been raised about the "show trial" aspects of the 2000 Raboteau trial and improper political interference from the then-Lavalas government in the judiciary, and there may indeed be technical merit to the Supreme Court's decision. It has nonetheless reinforced perceptions that the judiciary under the current government is biased against Lavalas partisans and more focused on procedural matters than on justice. End Summary.

Raboteau: Haiti's Killings Fields

2. (U) From April 18-22 1994, members of the Haitian military

and of the paramilitary FRAPH organization conducted a series of killings, rapes, house-burnings and other acts of violence in the seaside shanty neighborhood of Raboteau in Gonaives. The violence, targeted at supporters of then-President Aristide (in exile at the time), was one of the worst atrocities of the 1991-94 coup years, and has gone down in Haitian history as the "Raboteau massacre." Aristide's return in 1994 led to the opening of an investigation, and ultimately to a trial that ran from September-November 2000. The GOH at the time leaned heavily on a team of lawyers and investigators from the U.S. and other countries, including the Bureau des Avocats Internationaux (One prominent member of the BAI, Brian Concannon, now runs the Institute for Justice and Democracy in Haiti - IJDH). The Raboteau trial resulted in the conviction in absentia of 37 military and paramilitary members, including Chamblain and Constant, and the conviction of 15 others present at the trial (including Jean Pierre alias "Jean Tatoune"). The latter 15 appealed and, four and half years later, the Supreme Court's decision is the result of that appeal.

Sound legal basis, questionable result

3. (U) The Court's ruling, dated May 3 but not released until May 9, is a procedural one. The Raboteau indictment bundled several counts together that, according to the Supreme Court, should not have been bundled, since some of them require a jury trial while others do not. The Raboteau trial was a jury trial, but according to the Supreme Court, the prosecutor should have tried the two kinds of counts separately. A Canadian lawyer who works closely with the Embassy and has long experience in Haiti told us May 12 that, in his judgment and that of several Haitian lawyers he consulted, the Supreme Court was correct in its basic decision. However, he said legal experts were puzzled at the decision to go further and order the accused set free. Normal procedure would have been for the Supreme Court to annul the lower court ruling and then either re-try the case(s) itself or send them back to the Gonaives court for (proper) retrial.

The Supreme Court did neither, instead ordering the prisoners freed if there were no other cause. Pierre Esperance of the National Network for the Defense of Human Rights (RNDDH, formerly NCHR) told PolCounselor May 12 that legally most of the accused would be required to stay in prison until their retrial.

Chamblain shenanigans

4. (C) Esperance also confirmed reports from SRSV Valdes that the chief prosecutor and chief of the court in Gonaives had collaborated to produce a release order for Chamblain. (Note: Chamblain has been in jail since his acquittal last August for the Antoine Izmary killing, awaiting a similar retrial on charges relating to the Raboteau killings. He is being held at the same National Penitentiary annex as former Prime Minister Neptune). He said the chief prosecutor

(Commissaire du Gouvernement) for Port-au-Prince would have to approve any Chamblain release, and had given assurances that he would not do so. Charge raised this issue with Prime Minister Latortue May 11. Latortue assured us that that Chamblain would not be released, saying Minister of Justice Gousse agreed with him on this. He repeated this twice, saying Chamblain would not be released as long as he was Prime Minister.

Comment

5. (C) The Raboteau trial and convictions were viewed by many here (and in the U.S.) as a milestone victory for justice against the repressive military regime of the early 1990's. The process was not, however, free of political pressure from the Lavalas government at the time. That plus the involvement of U.S. and other international lawyers led others in this polarized society to see the Raboteau process as a "show trial" in which the convictions were a foregone conclusion. As in most things there, there is something to both sides. Public reaction has been surprisingly muted. Human rights groups, with the exception of the RNDDH, have been largely silent, disappointingly so given the importance of the case. Lavalas partisans have complained to us privately that this is another demonstration of the anti-Lavalas bias of the judicial system.

6. (C) What counts now is how the government reacts, and whether it moves to retry the accused properly. Latortue has publicly said the government would do so, but is not clear that his Justice Minister shares his enthusiasm for doing so.

Chamblain's release, particularly if it came while former PM Neptune remains incarcerated on far more questionable charges, would be a disaster. The PM's assurances that he will not be released are important, but we will need to maintain pressure on him and his team to ensure that the government sticks to this commitment.

GRIFFITHS

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